

## REMARKS

A second restriction requirement was provided in this case in the Office Action dated February 17, 2006, dividing the pending divisional application into Group I:  $Q^1$ - $Q^4$ ,  $X^2$  and  $X^3$  are all carbon; Group II:  $Q^1$ - $Q^4$  are all carbon and one of  $X^2$  and  $X^3$  is nitrogen; Group III: one of  $Q^1$ - $Q^4$  is nitrogen and one of  $X^2$  and  $X^3$  are nitrogen; Group IV: two or more of  $Q^1$ - $Q^4$  are nitrogen and  $X^2$  and  $X^3$  are both carbon; and Group V: two or more of  $Q^1$ - $Q^4$  are nitrogen and both  $X^2$  and  $X^3$  are nitrogen. Applicants respectfully traverse.

The applicants respectfully traverse the pending restriction requirement on two grounds. First, the Groups provided in the pending restriction requirement are divided by dividing Markush groups within the claims. Such a division between elements of a Markush group is not permitted under MPEP 803.02. The subject groups all have the same utility—VR1 inhibitors. Second, all of the subject groups share a heterazole core (containing  $X^1$  and N) with a carbon or nitrogen linked, substituted ( $R^3$ ), six-membered aromatic ring ( $Q^1$ - $Q^4$ ), the combination of which is essential to utility for this series of compounds.

Second, the groups provided by the examiner do not cover all the species or subgenera described in the application. The current restriction does not account for compounds wherein two or more of  $Q^1$ - $Q^4$  is nitrogen and  $X^2$  and  $X^3$  are either both carbon or one is nitrogen. Additionally, compounds wherein one of  $Q^1$ - $Q^4$  is nitrogen, and  $X^2$  and  $X^3$  are both carbon, or both nitrogen, are also omitted. Examples 2, 5, 6, 51-53, 75 and 76 would not be contained within any of the proposed groups.

Accordingly, Applicants request that the restriction requirement be removed. However, in order to advance prosecution, the Applicants hereby propose a restriction requirement comprising the following groups that more accurately cover the subject matter disclosed in this application:

Group I:  $Q^1$ - $Q^4$ ,  $X^2$  and  $X^3$  are each carbon (same as pending restriction requirement)

Group II: one or more of  $Q^1$ - $Q^4$  is nitrogen, and  $X^2$  and  $X^3$  are both carbon

Group III:  $Q^1$ - $Q^4$  are each carbon, and one or two of  $X^2$  and  $X^3$  are nitrogen

Group IV: one or more of  $Q^1$ - $Q^4$  is nitrogen, and one or two of  $X^2$  and  $X^3$  are nitrogen

Accordingly, Applicants elect Group I, with traverse with example 71 as a representative species. The claims have been amended so that all pending claims fall within Group I.

Application. No. 10/775,980  
Amdt. dated March 23, 2006  
Reply to Office Action of February 17, 2006

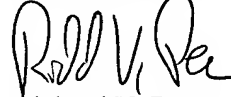
PATENT APPLICATION

Applicants' attorney sincerely and respectfully requests that the Examiner consider a telephone (805 447-3299) or personal interview to resolve any outstanding issues deemed appropriate by the Examiner.

Please send all future correspondence to:

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